

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6325 OF 2006

Krishnamai Shikshan Prasarak
Mandal Dhamner

Petitioner

versus

Balkrishna Yeshwant Keshirsagar
and another

Respondents

Mr.V.A.Thorat, Sr.Counsel with B.K.Raje for
petitioner.

Mr.A.V.Anturkar i/by S.B.Deshmukh for respondents
1 and 2.

CORAM : A.S.OKA, J.

DATE : 06th March 2007

PC :

1. Heard learned Senior Counsel for the petitioners. In this petition under Article 227 of the Constitution of India, the challenge is to the order dated 18th September 2006 passed by the learned Assistant Charity Commissioner, Sangli. The first and second respondents have filed Miscellaneous Application No.1193 of 2006 before the learned Assistant Charity Commissioner, Sangli praying for setting aside the order dated

12th June 2006 passed by the learned Assistant Charity Commissioner in Miscellaneous Application No.890 of 2006. Pending the said application, the first and the second respondents applied for interim relief. On the said application for interim relief, on 18th September 2006 the learned Assistant Charity Commissioner, Sangli issued notices and stayed the operation of the order dated 12th June 2006.

2. Learned Senior Counsel for the petitioners submitted that the Assistant Charity Commissioner had no jurisdiction to pass the order of staying his own order passed on 12th June 2006. He submitted that an advantage is taken of the said order of stay and elections have been allegedly held. He submitted that the impugned order deserves to be quashed and set aside.

3. A perusal of the impugned order clearly shows that the same is an ad-interim order which was to operate till the application for stay was heard. The order records that notices will be issued to the opponents in the said application and till further orders, operation of order dated 12th June 2006 will remain stayed. The ad-interim order dated 18th September 2006 is operating till

today as I find that there was no ad-interim relief granted in favour of the petitioners in this petition.

4. Interests of justice will be served if the Application No.1193 of 2006 is directed to be heard and disposed of immediately considering the nature of ad-interim order passed by the Assistant Charity Commissioner. The said application is for setting aside the earlier order dated 12th June 2006 and it is obvious that the said application will be considered and decided on the basis of the grounds which are incorporated in the said application. Hence this writ petition is disposed of by following order.

5. ORDER :-

a) Learned Assistant Charity Commissioner shall decide the Miscellaneous Application No.1193 of 2006 as expeditiously as possible and in any event within a period of four weeks from the date of production of an authenticated copy of this order duly issued by the Registry of this High Court;

b) It is obvious that scope of the said

application will be confined to the averments and grounds taken in the said application;

c) It is clarified that the order dated 18th September 2006 which is impugned in this application is only an ad-interim order which will now operate till final disposal of the Miscellaneous Application No.1193 of 2006;

d) If the said application cannot be decided by the Assistant Charity Commissioner within the time stipulated by this Court, the learned Assistant Charity Commissioner will immediately take up the interim application for hearing on which the impugned order has been passed and will decide the same expeditiously;

e) Writ petition is disposed of in the above terms;

f) All contentions of the parties on merits are expressly kept open;

g) All concerned to act on an ordinary copy of this order duly authenticated by the Registry of this Court.

MST

((-5-))

(A.S.0KA, J.)